

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 RSC-01 FAA-00 L-02 SS-15 NSC-05

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O R 232045Z JAN 75

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 3612

INFO AMEMBASSY BUENOS AIRES

C O N F I D E N T I A L LIMA 0621

EO 11652: GDS

TAGS: EAIR, PE

SUBJECT: CIVAIR CONSULTATIONS

1. NO MEETING HELD JANUARY 22 BECAUSE DGTA BERCKEMEYER DID NOT RETURN CALLS ASKING FOR MEETING. DELEGATIONS RESUMED CONSULTATIONS JANUARY 23. USDEL SAID TIME RUNNING OUT AND CENTRAL QUESTION WAS WHETHER PERU PREPARED PURSE POSITIVE NEGOTIATIONS AT EIGHT GOVERNMENT OR AIRLINE LEVEL. AGAIN MAKING CLEAR THAT FURTHER NEGOTIATIONS WAS NOT POSSIBLE IF PERU INSISTED ON RESTRICTIONS IN BRANIFF PERMIT AND SUCH PRINCIPLES AS PARITY IN FREQUENCIES, USDEL NOTED THAT, IF PERU READY TO LOOK AT SITUATION IN TERMS OF COMMERCIAL REALITIES, THERE MIGHT BE POSSIBILITIES OF SOLUTION. AS HYPOTHETICAL EXAMPLE, WE NOTED THAT BRANIFF MULTISTOP FLIGHTS WERE NOT AS COMPETITIVE AS AEROPERU NONSTOP MIAMI-LIMA FLIGHTS, AND ON THIS BASIS PERU SHOULD BE ABLE ACCEPT MORE BRANIFF FREQUENCIES THAN AEROPERU. WHETHER SOLUTIONS OF THIS TYPE POSSIBLE COULD ONLY BE DETERMINED BY EXPLORATION IN DETAIL, IN WHICH AIRLINES WOULD HAVE TO PARTICIPATE.

2. PERU DEL INITIALLY APPEARED RECEPTIVE THIS APPROACH. BUT AS DISCUSSION CONTINUED IT WAS OBVIOUS THAT BERCKEMEYER COULD NOT OR WOULD NOT COMMIT HIMSELF TO FORSAKE PRINCIPLES SUCH AS FREQUENCY PARITY. BERCKEMEYER SAID HE WOULD HAVE
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TO SEEK GUIDANCE FROM HIS GOVERNMENT AND ASKED IT HE COULD

HAVE US POSITION. (US CHAIRMAN HAD EARLIER ALLUDED TO FACT HE WAS UNDER INSTRUCTIONS TO MAKE CERTAIN STATEMENTS, BUT WANTED FIRST TO EXPLORE WHETHER BASIS FOR POSITIVE NEGOTIATIONS COULD BE FOUND.) US CHAIRMAN SAID THAT, IN ORDER THAT GOP MIGHT FULLY UNDERSTAND SITUATION, HE WOULD CARRY OUT HIS INSTRUCTIONS. FOLLOWING STATEMENT WAS READ AND COPY GIVEN PERU DEL:

"I HAVE BEEN INSTRUCTED BY MY GOVERNMENT TO STATE THAT THE CONDITIONS ATTACHED TO THE OPERATING PERMIT ISSUED TO BRANIFF ARE IN VIOLATION OF THE AIR TRANSPORT AGREEMENT AND ARE NOT ACCEPTABLE TO THE USG. SHOULD THOSE CONDITIONS NEVERTHELESS BE IMPOSED UNILATERALLY BY PERU ON FEBRUARY 1, OR AT ANY OTHER TIME, THE RESULT WILL BE THE SUSPENSION OF AIRSERVICES BETWEEN THE TWO COUNTRIES BY THE AIRLINES OF BOTH COUNTRIES.

"MY GOVERNMENT HAS ATTEMPTED TO AVOID THE FOREGOING RESULT THROUGH NEGOTIATION AND IT CONTINUES READY TO DO SO, HOWEVER, THERE HAS BEEN NO REAL ATTEMPT BY PERU TO MEET U.S. NEEDS, DESPITE EFFORTS BY THE USG AND BRANIFF TO MEET PERU'S NEEDS. MOREOVER, EVEN IF SERIOUS NEGOTIATIONS WERE TO BEGIN TODAY, IT IS UNREALISTIC FOR EITHER OF US TO EXPECT THAT THE PROCESS COULD BE COMPLETED BY JANUARY 31. TIME HAS RUN OUT.

"IF PERU WISHES TO OFFER POSITIVE PROPOSALS TO RESOLVE THE IMPASSE--AT EITHER THE GOVERNMENTAL LEVEL OR THE AIRLINE LEVEL--YOUR GOVERNMENT WILL HAVE TO EXTEND THE TIME PERIODS IN THE PERMIT BEYOND JANUARY 31 IN ORDER TO HAVE TIME FOR NEGOTIATIONS. AN EXTENSION FOR A FIXED PERIOD WOULD REQUIRE THAT THE U.S. TAKE SIMILAR ACTION WITH RESPECT TO AEROPERU'S AUTHORITY. ACCORDINGLY, IN ORDER TO AVOID THE DISADVANTAGES FOR BOTH SIDES OF FIXED EXTENSIONS, THE USG SUGGESTS THAT THE EXTENSIONS BE INDEFINITE, SUBJECT TO TERMINATION BY EITHER GOVERNMENT AT ANY TIME WITH ADEQUATE ADVANCE NOTICE TO THE OTHER GOVERNMENT.

"IF, ON THE OTHER HAND, PERU IS NOT PEPAED TO ENTER INTO POSITIVE NEGOTIATIONS, THE USG PROPOSES THAT, IN ORDER
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TO AVOID THE ADVERSE CONSEQUENCES ON THE TRAVELLING PUBLIC WHICH WILL RESULT FROM AN ABRUPT AND DISORDERLY SUSPENSION OF AIR SERVICES, PERU ALLOW BRANIFF TO CONTINUE TO OPERATE AS IT IS CURRENTLY OPERATING UNTIL MAY 1, 1975 AND THAT THE U.S. ALLOW AEROPERU TO CONTINUE TO OPERATE AS IT IS CURRENTLY OPERATING UNTIL MAY 1, 1975, ON WHICH DATE BOTH AIRLINES WOULD CEASE ALL THEIR OPERATIONS BETWEEN THE TWO COUNTRIES. THE AIRLINES COULD, IF THEY WISHED, BEGIN

PHASING OUT THEIR SERVICES BEFORE MAY 1.

"IF PERU CANNOT ACCEPT THE FOREGOING PROPOSAL FOR A MUTUAL SUSPENSION ON MAY 1, BRANIFF WILL, EFFECTIVE FEBRUARY 1, TEMPORARILY OPERATE PURSUANT TO ITS PERMIT IN ACCORDANCE WITH A SCHEDULE WHICH THE U.S. DELEGATION WOULD PRESENT TO YOU FOR YOUR APPROVAL. BRANIFF WOULD OPERATE UNDER THIS SCHEDULE ONLY BECAUSE THE USG WOULD NOT WISH IT TO DISRUPT THE TRAVELLING PUBLIC ANY MORE THAN IS NECESSARY. FOR THE SAME REASON, THE USG WOULD PERMIT AEROPERU TO CONTINUE TO OPERATE FOR A TEMPORARY PERIOD OF TIME OF 30-45 DAYS, AFTER WHICH ITS U.S. AUTHORITY WOULD BE SUSPENDED. THE U.S. ASSUMES THAT PERU WOULD THEREUPON TERMINATE BRANIFF'S SERVICES."

3. BERCKEMEYER SAID STATEMENT WAS CLEAR. IT WAS AGREED MEET 10:00 AM. JANUARY 24, AFTER US CHAIRMAN SAID HE WAS UNDER STRONG PRESSURE BE BACK IN WASHINGTON BY MONDAY, JANUARY 27.

4. ALL PERU NEWSPAPERS JANUARY 23 CARRIED PROMINENT ARTICLES REFERRING TO BRANIFF'S "THREAT" TO SUSPEND AIR SERVICES ON FEBRUARY 1 AND CARRYING TEXT AEROPERU COMMUNIQUE. SEPTTEL REPORTS IN DETAIL.

5. COMMENT: DIE HAS BEEN CAST. CHARGE, WHO TOOK UP THIS NEGOTIATING PROBLEM WITH FONMIN DE LA FLOR ON JAN 29 HAS NOW REQUESTED APPOINTMENT WITH AIR MINISTER GILARDI IN ORDER OPEN UP LINE OF COMMUNICATION WITH DECISION MAKERS, BUT NO TIME YET SET. FINAL OUTCOME PROBABLY DEPENDS ON WHETHER GOP WILL REACT EMOTIONALLY OR ON BASIS CALM ANALYSIS OF SITUATION. IT IS POSSIBLE THAT PERU DEL WILL NOT RESPOND DEFINITELY AT NEXT MEETING FRIDAY, THUS RAISING QUESTION WHETHER USDEL
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SHOULD REMAIN INTO NEXT WEEK. WE INCLINED BELIEVE IT SHOULD NOT REMAIN, BUT WE WILL REASSESS SITUATION AFTER FRIDAY MEETING. BARNEBEY

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